IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELALTE SIDE

**CRIMINAL APPLICATION NO. 6851 OF 2005**

The State of Maharashtra ..Applicant
V/s
Babu Sakharam Lanjekar & Ors. ..Respondents.

Mrs. M.H. Mhatre, Advocate for the applicant.

**CORAM : J.H. BHATIA, J.**

**DATE : 4TH JUNE , 2007.**

P.C.

. Heard Mrs. Mhatre, learned APP for the State. Perused the copies of the relevant record.

2. The State has filed this application seeking leave to prefer an appeal against the order of acquittal for the offence punishable under section 498A, 306 r/w section 34 of Indian Penal code.

3. Deceased Anju was married to Sanjay, son of respondent No.1 and 2 and brother of respondent No.3 on 9/5/2001. Within 15 - 20 days after the marriage she became pregenant. Later on she delivered a child at her parents' place. According to the prosecution, immediately after she became pregenant for the first

time, the accused persons began to harass alleging that she must have become pregenant from some person other than her husband and that she was older than her husband. On 22/3/2004 she committed suicide by immolating herself and her dead body was found and the message was given to her parents. On the complaint lodged by her brother the offence was registered against parents-in-law and sister- in-law of deceased. After the trial, all three accused were acquitted. The learned trial Court found that there was no reliable material to show that deceased Anju was subjected to cruelty.

4. The record reveals that out of this wedlock, Anju had given birth to two children. She became pregenant within 15-20 days after the marriage and gave birth to a child and for the purpose of delivery she had been to her parents' place as per custom. After that she along with the child went to live with her husband. After a few months she became pregenant second time. For the second delivery also she went to her parents place. At that time her first child was with the grand parents' and father. The trial Court noted that the accused persons used to love the child and therefore,

they had kept the child with themselves when Anju went to her parents place for second delivery. There is no allegations that she was harassed on account of unlawful demand and therefore, the trial court noted that the case does not fall under explanation "b" of section 498A IPC. The learned trial Court also found that there is no evidence of such a willful conduct or cruelty which was likely to drive her to commit suicide or to cause grave injury or danger to life, limb or health. The only allegation against the accused was that they were suspecting the paternity of the first child. They used to harass her saying that she was elder than her husband. The second ground cannot be treated as a cruelty. As far as the allegations against the character of a woman is concerned, it may amount cruelty. However, the evidence reveal that the accused persons used to love first child, whose paternity was allegedly disputed. This creates serious doubt about the prosecution allegation that the accused used to harass her on the ground that first child was conceived not from the wedlock but from the extra marital relations.

5. Taking into consideration the circumstances

noted above, though Anju had committed suicide, prosecution failed to prove that she was subjected to such a cruelty as defined in explanation "a" to section 498A IPC. I find no fault with the impugned order of acquittal. No purpose will be served by granting leave to prefer the appeal against the acquittal.

6. Leave refused and the application stands rejected.

**(J.H. BHATIA, J.)**